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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,413	06/21/2001	Yi-Min Wang	MS1-752US	8942

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EXAMINER
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RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/887,413

Applicant(s)

WANG ET AL.

Examiner

Samuel Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-42 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119


- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

  
SHAHID ALAM  
PRIMARY EXAMINER

RD

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 20 April 2005 have been fully considered but they are not persuasive for the following reasons:

Applicant's main arguments are that Wagner does not show or disclose "receiving an alert" or receiving the alert from one of multiple alert sources and Wagner does not show or disclose conditionally transmitting an alert to a user according to a secondary delivery action.

Examiner respectfully disagrees all of the allegations as argued. Examiner, in his previous office action, gave detail explanation of claimed limitation and pointed out exact locations in the cited prior art.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

#### Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

In response to applicant's argument, Wagner's teachings of the notification system, where the notification system includes an information **receiving function** of the information processing system for **receiving the information** as received information; a database or data warehouse of the information processing system for storing the received information as stored information; the clinical event monitor which analyzes the

stored information to determine an event and **generate an alert** including a message data structure having a message, and **partial or complete delivery instructions; plural communication channels for communicating the message** of the data structure to **one or more of the users** clearly discloses receiving an alert as claimed.

Wagner further teaches fail-safe communication channels, where the communication channel manager accepts an acknowledgement of receipt of the message from the user of the fail-safe communication channel. If the acknowledgement is not provided by the user within a predefined time, then the message is resent to the user and the process of checking for the acknowledgement is repeated. Wagner's teachings of fail-safe communication channels clearly teaches applicant's conditional transmission.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **transmitting an alert to a user according to a secondary delivery action**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claimed limitation states, "the delivery mode further comprises a primary delivery block specifying at least one delivery action, and a secondary delivery block specifying at least one delivery action". Examiner interprets these limitation as the delivery mode comprises two delivery blocks, i.e. a secondary delivery block and the block specifying one delivery action. Claimed limitation further teaches transmitting the alert to the user

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according to the delivery action specified in the secondary delivery block if conditions are met, but claimed limitation does not state transmitting an alert to a user according to a secondary delivery action as claimed.

For the above reasons, Examiner believed that rejection of the last Office action was proper.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 15 and 16 - 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "A method" in claim. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether "A method" is a manual process or a computer implemented method.

Claim 16 recites the limitation "A centralized alert delivery system" in claim. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether "A centralized alert delivery system" is a manual processing system or a computer implemented system.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**MPEP 2106 IV.B.2.(b)**

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. *Schrader*, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

***MPEP 2106.II.A***

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994).

Claims 1 and 16 in view of the above cited MPEP sections, are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts. The use of a computer has not been indicated.

This claim does not indicate use of hardware on which the software runs to perform the steps recited in the body of the claim. Software or program can be stored on a medium and/or executed by a computer. In other words the software must be computer-readable. **The use of a computer is not evident in the claim.** MPEP

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2106.IV.B.1(a) refers to "computer-readable" medium with computer program encoded on it."

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 42 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,092,102 issued to Michael Wagner ("Wagner").

With respect to claims 1 and 35, Wagner teaches the general concept of generating an alert (column 6, lines 30 – 36), the alert is mapped to specific delivery modes (column 6, lines 45 – 46), one of the mechanisms for accomplishing the mapping, namely a mapping table (Table III; column 12). Once the message is mapped to the specified deliver mode, such as e-mail or pager, the message is sent according to the specified mapping.

Claims 2 and 17: As seen in Table 111, the message can be mapped according to the source. In particular, line 1 of Table 111 specifies that messages from a laboratory are mapped to a specific type of pager.

Claims 3 and 18: The alerts may be mapped according to their content. Col. 12, lines 27-29 specify that surgeons may be mapped as receiving messages relating to surgical techniques while pharmacists may be mapped as receiving information for new drugs.

Claims 4 and 19: As seen in Table 111, the delivery mode is in fact a delivery method. Table 111 illustrates five different delivery methods, as specified by the columns of Table 111.

Claim 5: Table 111 specifies five different delivery methods, as seen from the columns of the table. One of the delivery methods is "two-way fail safe pager" in which the message is repeated until it is acknowledged. This would read on the steps of waiting for an acknowledgement in the case where an acknowledgement is expected.

Claim 6: Col. 14, lines 39-46 further describe the "fail safe pager" mode. In this instance a time is established to wait for an acknowledgement since an acknowledgement is expected in this mode.

Claim 7: Table 111 illustrates five different delivery modes corresponding to five different delivery methods, as seen from the columns of the table. Any one method corresponds to a first delivery method and any second method corresponds to a second delivery method.

Claims 8, 27 and 36: The rows of Table 111 specify some of the possible categories of alerts, such as "Lab Test" or "New Article". Each of the categories can be assigned a delivery mode (defined by the columns of the table). Thus, table 111 defines a mapping between category of alert and delivery mode.



Claim 9: Table IV in columns 12 illustrates the assignment of priorities to the categories. For example, the category of "Lab Tests" is assigned an immediate deliver priority. The "Lab Test" category is also assigned a specific delivery mode, namely, the "Fail Safe" pager mode that is associated with the prioritized category.

Claims 10, 12, 24, 26 and 39: Table V illustrates a mapping of each delivery mode to multiple delivery blocks. For example, the "two way fail safe pager" is a delivery mode that is mapped to a primary delivery block (the column data "time latency-immediate") and a secondary delivery block (the column data "Fail Safe Yes"). In this instance, when the primary delivery block requiring immediate alert delivery fails, the data in the secondary block will control the subsequent actions, in which case the message is repeatedly sent according to the fail safe mode (col. 14, lines 39-46).

Claims 11, 13, 14 and 33, The primary delivery block is the column data "time latency immediate". The secondary delivery data is the column data "Fail Safe Yes". No acknowledgement is awaited under the primary block because none is required. An acknowledgement is awaited under the conditions of the secondary delivery block, because the fail safe mode requires an acknowledgement after a certain time period to stop the repeated message transmissions (col. 14, line 39-46).

Claim 15: Col. 14, lines 39-46 describe the waiting of time periods for acknowledgement to the messages.

Claim 16: FIG. 1 illustrates an input/output module for inputting alert information (20) and outputting alerts to users (10, 12, 14). Table 111 illustrates a mapping module to map alerts to one of five delivery modes, as specified by the columns of FIG 3. FIG. 1

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illustrates a communications layer interface (32) that is an interface the communications modules (i.e. e-mail systems and pagers) used by the end users (10, 12, 14).

Claim 20: Table 111 specifies transmission by e-mail. Table V specifies immediate pager transmission, which reads as instant messaging. Table 111 pagers, which are short message service type messages.

Claim 21 : For any one given delivery mode, such as "Two Way Pager with Fail Safe" a primary and secondary delivery block is provided. The primary block is the column data "time--Latency--Immediate". The second block is "Fail Safe Yes". In the "Fail Safe Yes" block of data, an acknowledgement to the message is expected (col. 14, lines 39-46).

Claim 22: Each of the primary and secondary delivery blocks specifies types of delivery actions. In the secondary delivery block, an acknowledgement is expected. (col. 14, lines 39-46).

Claim 23: Acknowledgements are expected after specific, predefined time periods (col. 14, line 44).

Claim 25: Messages must be delivered according to both the primary and secondary delivery blocks specified in Table V.

Claim 28: FIG. 1 illustrates a processor (8), an I/O module (22), a memory (24) and an alert center (6): The alert center (6) includes a subscription layer (Table 111) in which users specify their preferences of delivery modes for specific types of information. Referring back to FIG. 1 , the system further includes a communications layer (32).

Claim 29: Col. 14, lines 39-46 call for the system to monitor acknowledgements of alert deliveries in the fail safe mode.

Claim 30: As described at col. 14, lines 39-46, the system monitors for acknowledgement of delivery. If delivery is not made, a backup of method of repeating the message is provided.

Claim 31: Table V in its entirety is readable as a primary delivery block. It specifies five delivery actions, as specified in the columns, For any one given delivery mode, such as "two way pager" specified in the first line, all five delivery actions must be met.

Claim 32: In Table V, each delivery mode is a row of the table. The primary delivery block can be the column data "Time Latency--Immediate". The secondary delivery block can be the column data "Fail Safe -Yes". As specified in col. 14, lines 39-46, if immediate delivery of the message is not achieved, the system turns to the fail safe mode in the secondary block and begins repeating the messages until acknowledged.

Claim 34: See remarks for claim 8. The mapping module is Table 111.

Claim 37: Table 111 specifies five delivery modes, which corresponds to five delivery actions.

Claim 38: Table V specifies delivery modes in the rows and delivery actions in the columns. Any one given delivery mode has five delivery actions associated with it.

Claims 40-41 : The phrase "the primary delivery mode" can be considered one

of the rows in Table V. Each row has five delivery actions. If a message has failed to be received by an end user, then all five of the actions are inherently failed.

Claim 42: Col. 14, lines 39-46 specifying the monitoring for an acknowledgement by the system.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Contact Information**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Rimell whose telephone number is (571) 272- 4084. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on **571-272-4146**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Shahid Al Alam for Sam Rimell  
Primary Examiner  
Art Unit 2162

7 July 2005